classes of people. For example, the tenants of the incorporated Devaswoms, against whom Government have hitherto had to file suits in Civil Courts for arrears of rent, are now affected by the introduction of this provision."

President :—

"With reference to this, I may say that, according to a recent amendment of the Religious Endowments Regulation, these arrears are recoverable as arrears of land revenue."

Mr. Govinda Menon :—

"Then, there is another class of people who are affected by this provision. They are the petty contractors in the P. W., Marahmat and other Departments. In some cases, these people have executed agreements which contain a clause to the effect that the amounts due from them may be recovered as arrears of revenue. Such agreements are taken only from petty contractors who are completely at the mercy of the Departmental officers. Most of these contractors are natives of this State ; and it is they that are chiefly affected by this provision of law. When settling accounts, the officers settle them in their own way and realise the amount summarily, and the party will be driven to go to the Civil Court and be put to a great deal of trouble and unnecessary expense. The question is whether the Government or the party should be asked to go to the Civil Court. In view of the fact that it is the petty contractors alone that will be forced to enter into agreements containing such a provision, and that it is they that would be in trouble, I think it unnecessary to introduce this provision of law. It may be that there will be considerable difficulty for the Government to realise small amounts from these contractors, but if these are to be realised through Civil Courts, the parties will certainly get justice. If, on the other hand, these amounts are to be realised by the summary process of the Revenue Department, in the majority of cases, the parties will not get justice done. The introduction of the Clause may be justifiable, as I said, only in particular circumstances but not in a sweeping kind of way. My friend will perhaps say that a similar provision exists in other countries. I am told that this provision is found in the Bombay Code. I understand that that is the only Province where this provision of law is to be found. Why should we select such a retrograde provision and incorporate it in our Statute Book ? When the other British Provinces have not cared to copy the Bombay Code, why should we do it and take away the existing right of the subject ? I do not think there is any absolute necessity for having such a general and comprehensive provision as the one in question."

Seconded by Mr. Gopala Pillai.

Mr. Subba Aiyar :—

"I beg to oppose the amendment. In the first place, agreements are entered into with Government or with heads of Departments on behalf of Government by contractors and other persons with their eyes open. They agree that any amount that may be found to be due from them may be recovered as arrears of land revenue. Now the question is whether the realisation of this amount could not be done through Civil Courts. A number of persons enter into agreements with various heads of Departments, and different sums are due from them. Is it desirable that in each case the Government should file a suit against each individual ? Will it not be enough if, in case of dispute, the party deposits the amount under protest and sues to recover the amount through Civil Courts, or sues to have the sale set aside if his property be sold in the meantime ? The remedy open to the party concerned to go to the Civil Court and to have the question of liability gone into is not at all taken away by the Section. The question is whether the Government or the party should go to a Civil Court for redress. The latter course is, I think, preferable. If the party disputes the amount that is claimed against him, the remedy is clearly open. I do not therefore see why an agreement entered into by the party should not be enforced. Such provision does exist in the British Indian enactments. It is also found in the existing Regulation, though the wording is rather vague."

The motion was put to the vote and lost.

Mr. Subba Aiyar moved that the word 'are' be substituted for 'is' in line 3 of the proposed Section 59.

Seconded by Mr. Chacko.

Carried.

Mr. Krishna Aiyangar moved that the word 'penalties' be substituted for 'liabilities' in line 4 of the same Section.

Mr. Subba Aiyar accepted the amendment and it was carried.

Mr. Subba Aiyar then moved that the Bill, as settled by the Council, be read again on a future day of which notice should be given.

Seconded by Mr. Mahadeva Aiyar.

Carried.

THE MOTOR VEHICLES REGULATION AMENDMENT BILL.

Mr. Subba Aiyar then presented the report of the Select Committee on the Motor Vehicles Regulation Amendment Bill, and moved that the report and the Bill be taken up for consideration at once.

Seconded by Mr. Raman Pillai.

Carried.

LIBRARY ARCHIVES Kerala Legislative Assembly

SECTION 4. SUB-SECTION (1).

Mr. Govinda Menon moved that the word 'eighteen' be substituted for 'twenty-one' in line 1, and said :—

"Sir,

Now the age of majority is 18. At eighteen, a man is eligible for a Commission in the Army. He is permitted not only to fight in the Army but to use artillery. If a man of eighteen is deemed to possess sufficient nerve and strength for all these purposes, why should he be deemed incapable of motor driving ?"

Mr. Krishna Aiyangar :—

"I second the amendment proposed. I submit that the youths of Travancore need not be regarded as inferior in the matter of sense of responsibility to those in British India where they are permitted to drive motor cars on attaining the age of eighteen."

Mr. Parameswaran Pillai :—

"It is all a question of ability to drive a motor car. The Police Commissioner will not give license unless he finds the man able and fit. Many of our boys under twenty are quite able to drive motor cars, and I do not see the reason why they should be compelled to wait for two or three years after the age of eighteen when they attain majority. After this, what more discretion are they going to get ? I therefore beg to support the amendment."

Mr. Subba Aiyar :—

"No doubt, in British India, the age at which a man is permitted to drive a motor car is eighteen. But, under the existing Regulation, the age fixed is twenty-one, and the Bill follows it. The question is whether a man of twenty-one will not possess greater self-control to enable him to drive a motor car safely. I think it is better to leave it as it is."

Mr. Subrahmanya Aiyar :—

"Without meaning any disparagement to the youths of this country, I may say that some of them drive motor cars very recklessly, with disastrous results. I think that we may retain the age of twenty-one."

Mr. Krishna Aiyangar :—

"There is one other aspect. Sub-section (1) of Section 4 would disqualify every lad of eighteen from undergoing training for driving a motor vehicle. Section 7 empowers a youth without a license to drive the same. Under Section 4, if he is under twenty-one, he cannot do that. He will have to complete the age of twenty-one before he begins practising the art itself. That will take some time. There is also the difficulty pointed out by Mr. Parameswaran Pillai. After all, the statutory disqualification with reference to age mentioned in Section 4 ought to be done away with. Every driver has to take out a license from the Police Commissioner, and if that officer thinks that a youth is unfit, no danger comes in. I submit that youth should not be penalised beyond the imperative requirements of public safety."

After some discussion, the motion was put to the vote and carried.

SECTION 4. SUB-SECTION (2).

Mr. Govinda Menon moved that the word 'eighteen' be substituted for the words 'twenty-one' in line 2 of sub-section (2).

Seconded by Mr. Chacko.

Carried.

Mr. Govinda Menon moved that the words 'and in the event of a contravention of sub-section (1), the Court may presume that the motor vehicle was driven with the consent of the owner or person in charge' occurring in sub-section (2) be deleted.

Mr. Krishna Aiyangar :—

"I second the amendment. I submit that this question was raised when the Bill was first introduced, and then the learned Member in charge of the Bill said that the matter would receive consideration at the Select Committee. The report of the Select Committee does not make any reference to the objection that was raised at the earlier stage. No reasons are alleged as to why this clause should be retained. There is no such presumption in the existing Regulation. The Mover has not referred to any particular cases in which real difficulty was experienced by the Police, leading to failure of justice. I do not understand why we should reverse the ordinary rule of law, unless we are satisfied that there is imperative necessity for so doing. What are the facts that have been placed before the Council ? How many cases have arisen under this Regulation after it was originally passed ? How many convictions were secured ? In how many cases have the Police failed owing to their inability to prove that the motor was driven with the consent of the owner or the person in charge ? Of course, I am aware that, under the Penal Code, certain acts are declared to be offences without reference to the frame of the mind of the accused, where knowledge and intention are not necessary. Those are exceptional cases, but, where knowledge is considered to be an essential ingredient of the offence itself, as in the present instance, the burden ought not to be thrown on the accused. We are not dealing with ordinary rowdies who violate the general law of the land. The owners of motor cars are certainly respectable people. It is these people

LIBRARY ARCHIVES Kerala Legislative Assembly

that are brought before the Magistrates for trial by the Police as accused persons. Why should we then presume that these people will deliberately violate a statutory provision? Considering the status of these people and the ordinary rule of presumption, and remembering also the fact that the knowledge of the individual is necessary to constitute the offence, it is the reversal of the ordinary procedure that we follow when we say that the Court may presume that the motor vehicle was driven with the consent of the owner or person in charge. There may be cases in which the prosecution may be able to prove that it was with the consent of the owner that the motor was driven. There may be cases in which the prosecution may itself be satisfied that the man was not responsible. He may have been at Tinnevelly, and the offence may have been committed at Trivandrum. All the same, if the prosecution is started with the presumption that the motor bus was driven with the consent of the owner, the burden is thrown on the accused to prove that he was at Tinnevelly. Unless it can be said that gross miscarriage of justice will result if the provision is not retained, and unless we are satisfied that, in the best interests of public peace and public safety, the reversal of the ordinary rule of law ought to be adopted, I submit we ought not to go in for it. This tendency to presume the guilt of an accused which this Section indicates may crystallise into a regular habit, and I protest against it."

Mr. Parameswaran Pillai :—

"It cannot be denied that there is a deviation from the ordinary general principles of Jurisprudence in introducing the provision in question. Whenever any such deviation is made, cogent reasons should be given to show that the matter is one of particular importance and urgency. In this matter, I am unable to see any particular injury that may be caused by not introducing this provision. Such provisions may sometimes appear to be innocuous, but in actual working they will do great hardship. I shall state an example for the information of the Council. There is a provision in this Regulation requiring every motor bus to be provided with a speedo-meter. A motor company in which I was interested was once prosecuted for not providing a speedo-meter. We were able to prove that no speedo-meter was available in India, and we were able to get the conviction set aside by the Appellate Magistrate. But the High Court said that no such excuse was provided for and that the conviction should be upheld. So I submit that, unless a very strong case is made out for making an exception to the general rule, it ought not to be introduced."

Mr. Subba Aiyar:—

"With reference to the argument that, in the working of the existing Regulation, no difficulty seems to have arisen for want of such presumption, I may say that there is no provision in the existing Regulation making it penal for any one to allow a motor car to be driven by a person under 21. The existing Regulation makes provision only for granting licenses, and prohibits license-holders from lending their licenses, so that the Section, as it stands in the amending Bill, does not find a place in the existing Regulation. Secondly, the presumption, as I submitted when the Bill was introduced, that is sought to be raised in the present case is not so violent as my friends would have it. If a motor car belonging to A is found in the possession of B, the reasonable presumption is that B has got it with the consent of A, and not that he took it without his knowledge and consent. In the exceptional cases where, for instance, as my friend Mr. Krishna Aiyangar said, the owner was at Tinnevelly, it would be easy for the man to rebut the presumption. It is not a conclusive presumption that is sought to be raised by the provision in the Bill. The question whether a person took the car with the owner's consent or not is one entirely within the knowledge of the owner, and it is easy for him to rebut the presumption."

The motion was put to the vote and lost.

SECTION 18.

Mr. Krishna Aiyangar moved that the Section be recast as follows:—

"No offence punishable under this Regulation or any rule made thereunder, shall be tried by a Court inferior to that of a Magistrate of the Second Class."

Mr. Subba Aiyar accepted the amendment and it was carried.

SECTION 19. SUB-SECTION (3).

Mr. Krishna Aiyangar moved that the words 'Our Government' be substituted for the words 'the authority by which the license has been granted' in line 6.

Mr. Subba Aiyar accepted the amendment and it was carried.

SECTION 19. SUB-SECTION (7).

Mr. Krishna Aiyangar moved that the word 'every' be substituted for the word 'any' in line 1.

Mr. Subba Aiyar accepted the amendment and it was carried.

Mr. Subba Aiyar then moved that the Bill, as settled by the Council, be read again on a future day of which notice should be given.

Seconded by Mr. Rengaswami Aiyangar.

Carried.

The Council adjourned at 5-10 P. M.

M. KRISHNAN NAIR,
President.

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